



# Rules Up For Discussion and Possible Filing

## Proposed Amendments to

**WAC 230-12-340** Sale of gambling equipment, devices, supplies, paraphernalia, and related services—Authorized transactions.

**WAC 230-20-244** Electronic bingo card daubers—Definition—Operating restrictions—Standards.

ITEM 12 (a) on the April 14, 2006 Commission Meeting Agenda.	Statutory Authority 9.46.120
Who proposed the rule change?	
GameTech International, Inc., a licensed manufacturer of electronic bingo daubers.	
Proposed Change	
The Petitioner is requesting that manufacturers and distributors be allowed to lease electronic bingo daubers based on the number of bingo cards sold to a device.	
History of Rule	
<p>On October 10, 2005, language was added to WAC 230-12-340 limiting electronic bingo daubers to be leased based on the number of times a device is used or the number of bingo sessions in which devices are used. Fees cannot be charged based on a percentage of sales, the number of bingo cards sold through the device or the average amount a player spends on a device. This change was made to place restrictions listed in WAC 230-20-244(2)(g) in with all the other sales and lease restrictions.</p> <p>RCW 9.46.120 states in part that “No part of the proceeds of the activity shall inure to the benefit of any person other than the organization conducting such gambling activities or if such gambling activities be for the charitable benefit of any specific persons designated in the application for a license, then only for such specific persons as so designated.”</p> <p>Allowing electronic bingo daubers to be leased on a per-card fee is equivalent to allowing them to determine the fee based on the percentage of gross receipts.</p>	
Impact of the Proposed Change	
<p>The Petitioner justifies the proposal in (1) through (6) below:</p> <ol style="list-style-type: none"> <li>1) They would benefit by having more leasing arrangements available to offer their customers.</li> <li>2) RCW 9.46.120(1) states in part that no part of the proceeds of the gambling activity shall inure to the benefit of any person other than the organization conducting the gambling activity.</li> <li>3) WAC 230-02-108 defines proceeds as all monies remaining from the operation of any gambling activity after payment of prizes and necessary expenses.</li> <li>4) The ability to charge operators on a per-card sold basis does not in any way entitle a person to the proceeds from the operation.</li> <li>5) WAC 230-02-108 states that expenses are deemed to be necessary when they are required to operate an activity or they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses.</li> <li>6) The ability to charge an operator based on per-cards sold is the ultimate rationale in satisfying the improvement in profitability criterion, because the operator would never owe anything if nothing is sold.</li> </ol> <p>Currently, manufacturers and distributors must base fees on the number of times an electronic bingo dauber is used, or the number of sessions it is used at. Bingo operators are not billed if the electronic bingo dauber is not used.</p> <p>This rule change would directly connect billings for electronic bingo daubers to sales of bingo cards.</p>	

<b>Regulatory Concerns</b>
There will be a minimal impact on our regulatory programs if this petition is passed.
<b>Resource Impacts</b>
Staff currently monitors compliance with this rule in one step of a compliance module that takes only a few minutes to complete approximately once a year for bingo licensees with electronic bingo daubers. The change will have little effect on our regulatory program.
<b>Policy Consideration</b>
This is a significant departure from the Commission's application of RCW 9.46.120, which has not allowed billings to be based on a percentage of sales.
The Petitioner has not provided information necessary to determine if this change would increase the overall profitability of the gambling activity and comports with WAC 230-02-108 which states "expenses are deemed to be necessary when .....they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses."
<b>Stakeholder Statements Supporting the Proposed Rule Change</b>
None.
<b>Stakeholder Statements Opposing the Proposed Rule Change</b>
None.
<b>Licensees Directly Impacted By the Change</b>
Manufacturers, distributors, and operators of electronic bingo daubers.
<b>Staff Recommendation</b>
File for further discussion.
<b>Proposed Effective Date for Rule Change</b>
The Petitioner requests the change become effective 31 days from filing.